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The Genesis of the Kansas-Nebraska Act

By Frank Heywood Hodder, Ph. M.

Professor of History in the University of Kansas

[From the Proceedings of the State Historical Society of Wisconsin for
1912, pages 69-86]

Madison
Published for the Society
1913



Wisconsin State Historical Society

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Genesis of the Kansas-Nebraska Act

By Frank Heywood Hodder

Current events portend a new era of American political history. The division in the Republican party suggests the disruption of the Democratic party in 1860 and the earlier origin of the Republican party itself. The Republican party resulted directly from the repeal of the Missouri Compromise by the Kansas-Nebraska Act of 1854. It is still generally believed that this measure was proposed by Stephen A. Douglas in furtherance of his selfish ambition for the presidency. This is the view of the standard histories of Schouler and Rhodes, of Professor Smith's volume in Hart's "American Nation" series and of a recent popular life of Douglas by Henry Parker Willis. Stephen Arnold Douglas, with the accent on the Arnold, has been the cry of all, ever since von Holst gave currency to the phrase. Before entering on a new era of party history it may not be amiss to inquire whether we have correctly appraised the event that ushered in the present one.

The Kansas-Nebraska act was the resultant of four distinct elements. Of these the first and most important was the agitation for a transcontinental railroad which was begun by Asa Whitney in 1845. While Whitney's specific plan was eventually rejected, it was he who aroused public interest and convinced the American people of the necessity of a Pacific railroad. Action was, however, long delayed by rivalry between the various candidates for the eastern terminus of the road.¹

¹ For contest over eastern terminus of the Pacific railroad, see John P. Davis, *Union Pacific Railway* (Chicago, 1894), chap. iii. Other considerations delayed the building of the road, such as controversy over the power of the federal government and the mode of construction.

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Eastern interests, controlling navigation upon the Great Lakes and the Erie canal, and owning the railways centering in Chicago, wanted a road west from Chicago through Iowa and by way of South Pass to the Pacific. Somewhat later, with the development of Minnesota and Oregon, a project emerged for a road much farther north connecting Lake Superior and the Columbia. St. Louis wanted the road west through Missouri and thence across the mountains. The principal southern routes contemplated an outlet on the Atlantic at Charleston. Memphis, expecting to connect with Charleston by roads projected and in part under construction, wanted a road to Albuquerque and thence, either by Walker's pass or the Gila, to California. Vicksburg, also expecting through connection with Charleston, wanted a road west through Shreveport to El Paso and thence by the Gila route to San Diego. Southern Louisiana and Texas were both unwilling to have the Pacific trade carried north of them by rail to Charleston and wanted an outlet on the Gulf. Thus the situation was inextricably confused. Not only was there sectional division between the North and West on the one hand and the South on the other, but Northern interests were divided between three distinct routes and Southern interests between as many more. The rivalry was all the keener because it was supposed at that time that not more than one Pacific railway would ever be needed and that the first one constructed would remain the permanent highway across the continent.

Besides rivalry for the eastern terminal, two other influences blocked Pacific railway legislation. The Pacific Steamship Company, owned by New York capital, operated a line of steamships to Panama, and in 1849 incorporated a company for the construction of a railway across the Isthmus of Panama. At the same time New Orleans capital was promoting a railway across the Isthmus of Tehuantepec. Thus steamship and isthmus railway interests both in New York and New Orleans were opposed to any transeontinental railway at all.

At the beginning, Pacific railway projects necessarily favored a northern route, as that was the only one then within the territory of the United States; but with the acquisition of New Mexico and California the tables were turned. The Mexican

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War was fought quite as much in the interest of the expansion of Southern trade as in the interest of the extension of slave territory. The South wanted California and the trade with the Orient. Trist's instructions called for the cession of Southern California and a boundary along the line of the thirty-second parallel. He failed to get Southern California and had to content himself with the Gila River as a boundary; coupled, however, with the provision that if upon examination it should prove more advantageous to build a railroad on the south bank of the river, Mexico would make an agreement allowing its construction.

In 1849 Benton introduced his first bill in the Senate for a great central national highway from St. Louis to San Francisco, between the parallels of thirty-eight and thirty-nine, and in 1850 made his famous speech in favor of what he called "the buffalo trail." In both years conventions were held in different parts of the country in the interest of the various terminals. Stephen A. Douglas presided over the convention held at St. Louis in 1849. While the convention declared for a St. Louis terminal, a resolution in favor of Benton's buffalo trail was defeated, and one in favor of the South Pass route substituted, a route that logically required an Iowa and Chicago terminal.

Above all other things Douglas was interested in the railroad development of the West. More than any other man he contributed to the upbuilding of the city of Chicago by making it the railroad centre of the Middle West. In 1850 he carried through the land grant for the Illinois Central, by which he bound together the northern and southern sections of his own state and eventually joined the Great Lakes and the Gulf. With respect to the Pacific railway question, Douglas was in a difficult position. His private interests and those of the people of northern Illinois were bound up in the development of Chicago, where he lived. Southern Illinois on the other hand was tributary to St. Louis, and the interests of that section demanded a St. Louis terminal. If Douglas favored a Chicago terminal, he sacrificed the interests of the people of southern Illinois and laid himself open to the charge of favoring his private interests. If he favored a St. Louis terminal, he sacrificed his own interests and those of his Northern constituents. It is somewhat significant that the St.

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Louis convention, over which he presided, while declaring for a St. Louis terminal, nevertheless adopted a route that logically required a Chicago terminal.

The organization of New Mexico in 1850 gave supporters of the southern route a great advantage. It was indispensably necessary that the territory through which the road was to be built, be organized, in order to provide means for building it by the sale of land and in order to provide both protection and business after the road should be built. Unless the northern territory could also be organized, the chance of securing a northern route was lost.

The second element in the Kansas-Nebraska situation was the difficulty in the way of organizing this region, presented by the controversy respecting its status as to slavery. The Missouri Compromise provided that slavery in this region should forever be prohibited, but the question whether "forever" meant forever or was limited to the territorial period was left open at the time; and each side, as is usual in such cases, put its own interpretation upon the term. When Texas was annexed in 1845, Douglas tried to apply the principle to which, nine years later, he gave the name of popular sovereignty, by moving that states admitted from Texas be slave or free as their people should desire; but it was decided to restrict this provision to states formed south of the Missouri Compromise line, and Douglas himself moved the clause which declared that states formed north of this line should forever be free. Thus Douglas and the majority in Congress at that time accepted the Northern interpretation, that "forever" meant forever.

The question of the status of slavery in the territories was revived by the discussion of the organization of Oregon and of the territory to be acquired from Mexico. In this discussion two opinions developed with respect to the power of Congress: one that Congress had plenary power and might either prohibit slavery altogether or divide the territory by a compromise line; and the other, formulated by Calhoun, that slavery was guaranteed by the Constitution and that Congress could neither prohibit it in the territory nor allow the people to do so. The Democrats divided on this issue in the campaign of 1848 and a part of them organized the Free Soil

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party. Cass undertook in his famous Nicholson letter to evade the issue by taking the ground that slavery was a local question to be decided by the people of each state, subject however to the Constitution.² In other words the question of slavery was to be left to the people of each state—if the Constitution would admit, but not if the Constitution would not. This was a resort to the familiar expedient of a plank that could be construed one way in one section and the opposite way in the other, Cass's object being not only to secure the nomination for the presidency, but also to preserve the integrity of his party.

The Compromise of 1850 admitted California as a free state and organized the territories of Utah and New Mexico with the proviso that, when admitted as states, they should be received with or without slavery as their constitutions should prescribe at the time of their admission. The territorial bills were drafted by Douglas and finally passed in the exact form in which he originally reported them. In the admission of California the North gained an extra state and it was therefore the turn for the admission of a slave state. The South would not organize a free territory in the trans-Missouri region, which would certainly become another free state, and the North would not open this region to slavery by the repeal of the Missouri Compromise; but, unless it could be organized, there was no hope for a northern route for the Pacific railroad.

The third element in the Kansas-Nebraska situation was the local demand that developed in Missouri and Iowa for the organization of Nebraska for the express purpose of furnishing a route for the Pacific railway. The development of the movement in Missouri has been admirably traced by Professor Ray.³ Opposition to Benton's continuance in the Senate had

² There is an excellent study by M. M. Quaife, *The doctrine of non-intervention with slavery in the territories* (Chicago 1910) which by reason of having been privately printed as a doctor's thesis, is less known than it deserves to be.

³ P. O. Ray, *Repeal of the Missouri Compromise* (Cleveland, 1909). Unfortunately Professor Ray has made the presentation of this subject a basis for the untenable theory that the Kansas-Nebraska act was the work of Atchison. The force of Atchison's drunken speech is broken by his later utterances. It was Dixon who forced direct repeal. Atchi-

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been long gathering in Missouri, and the validity of the Missouri prohibition was made the issue between his supporters and opponents. In 1847 the Bentonites carried a resolution in the state legislature, affirming the validity of the Missouri Compromise; but by 1849 Claiborne F. Jackson's counter-resolutions were carried, denouncing the Missouri prohibition, affirming that the right to prohibit slavery in a territory belonged to the people of the territory and instructing their senators to act accordingly. Benton made these instructions the issue of his campaign for reelection, and was defeated by a coalition of the Anti-Bentonites and Whigs. He was immediately sent to the House by the St. Louis district, and in 1853 began a campaign for election to the Senate to succeed Atchison upon the platform of a Missouri terminal for the Pacific railway and the immediate opening of Nebraska to settlement in order to secure it. The organization of Nebraska was not needed by the Westward movement, as there were still in Missouri thousands of acres of unoccupied land, but it was indispensable to a Missouri terminus for the Pacific railroad. Under Benton's inspiration, numerous meetings were held in western Missouri, which sent memorials to Congress asking the immediate organization of Nebraska.

The development of a similar movement in Iowa has not yet been traced in detail; but between 1850 and 1853, under the leadership of Senators Dodge and Jones, numerous public meetings were held in the western part of the state, requesting the immediate organization of Nebraska. Hadley D. Johnson says that he removed from Indiana to Council Bluffs in 1850 with the expectation that it would be the eastern terminus of the transcontinental railroad; and that, with this end in view, he supported in the Iowa senate in 1852 the petition for land grants for three Iowa railroads converging there.⁴ Thus it appears that the validity of the Missouri Compromise had for some time

son was allied with the Calhoun wing of the Democrats, and would not have fathered a bill which assumed to establish popular sovereignty. As will appear later, Dodge of Iowa was the associate of Douglas in the passage of the Kansas-Nebraska act.

⁴Hadley D. Johnson, "How the Kansas-Nebraska boundary line was established", in *Nebraska State Hist. Soc. Transactions*, II, pp. 80-92. Council Bluffs was then called Kanesville.

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been an issue in Missouri and that there had developed in both Missouri and Iowa a considerable demand for the organization of Nebraska, and that this was desired in each state for the purpose of securing the eastern terminus of the Pacific railroad.

The fourth element in the Kansas-Nebraska situation was the result of the movement in Missouri and Iowa. This was the demand for organization, in the territory itself, by the emigrant Indian tribes under the leadership of the Wyandots.⁵ The Wyandots removed from Ohio in 1843 and settled on the west bank of the Missouri at the mouth of the Kansas. They were intelligent people with an organized government, and, while nominally Indian, were predominantly white in blood. They realized that the dissolution of their tribal relations was only a question of time, and wanted to secure the eastern terminus of the Pacific railroad and the opening of the territory to settlement in order to sell their lands at the highest possible price. In the fall of 1852 they sent Abelard Guthrie as a delegate to Congress to urge organization. In the summer of 1853 a convention of the emigrant tribes and of the white men in the territory was held at Wyandot, which passed elaborate resolutions⁶ declaring for Benton's central route for the Pacific railway, asking for the organization of Nebraska Territory, establishing a provisional government, and providing for the election of a territorial delegate to Congress.

At the ensuing election for territorial delegate the Rev. Thos.

⁵ This subject was developed in 1899 by William E. Connelley in his "Provisional Government of Nebraska Territory", issued as *Id.* iii. The material is repeated in Kansas State Hist. Soc. *Transactions*, vi, pp. 97-110. With the enthusiasm of a discoverer, Mr. Connelley exaggerates the importance of the movement. Hadley Johnson's article (see *ante*, note 4) and Connelley's book (p. 31) are the earliest suggestions that I have found of the influence of the Pacific railroad route upon the organization of Kansas and Nebraska.

⁶ This meeting was promoted and the resolution drawn by Maj. William Gilpin, a supporter of Benton and afterward first territorial governor of Colorado. Gilpin had secured the adoption of similar resolutions at Independence, Mo., in 1849. See appendix to his *Central Gold Region* (Philadelphia, 1860). Mr. Connelley writes me that he was mistaken in supposing that the resolutions were in the handwriting of W. T. Dyer, chairman of the committee on resolutions.

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Johnson, Methodist missionary to the Shawnees at Westport, was chosen. Hearing that an election for territorial delegate had been called and fearing that their railroad interests would suffer at the hands of a delegate chosen by the inhabitants of the southern part of the territory, the people of Council Bluffs crossed the river on the appointed day and elected Hadley D. Johnson delegate. Both Johnsons proceeded to Washington, and, while their influence was probably slight, nevertheless the presence of two representatives from the territory urging its organization could not have been wholly without effect. This summary of the elements that entered into the passage of the Kansas-Nebraska act discloses the fact that at every point the purpose was to secure a northern route for the Pacific railway.

The events in the struggle over the location of this railroad indicate that the organization of Nebraska was a part of the larger controversy. Douglas served in the House from 1843 to 1847, and in the Senate from 1847 until his death in 1861. As early as 1845 he proposed a grant of land to the states of Ohio, Indiana, Illinois, and Iowa, for a railroad from Lake Erie by way of Chicago and Rock Island to the Missouri River, and prepared a bill for the organization of the territories of Nebraska and Oregon and a land grant to them for a railway from the Missouri River to the Pacific.⁷ Nothing came of the proposals, as the title to Oregon was still in dispute and California had not yet been acquired. They are significant only as showing that these two purposes were coupled in Douglas's mind from the beginning of his national career, and at a time when serious agitation for a Pacific railway had hardly begun. In December, 1845, he was made chairman of the House committee on territories. When he was elected to the Senate in 1847, he transferred the House chairmanship to his friend and political lieutenant William A. Richardson, just elected to Congress for the first time, and was himself elected to the chairmanship of the corresponding Senate committee and continued in that position for over ten years. The organization of the

⁷ J. Madison Cutts, *Brief treatise upon constitutional and party questions* (New York, 1866), p. 218.

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territories thus became the principal business of his political life.⁸

In 1848, during both sessions of the Thirtieth Congress, Douglas introduced bills for the organization of Nebraska, but without result. The stream of emigration that poured over the Oregon trail after the discovery of gold in California, demonstrated the necessity of organization, but the struggle over the Compromise of 1850 postponed the subject for the time being. The whole history of the subsequent discussion of Pacific railway projects indicates the co-operation of Douglas and of Dodge of Iowa, both working for a Chicago and Iowa terminal for the road. During the first session of the Thirty-second Congress, the Senate passed (March 17, 1852) a bill introduced by Senator Jones of Iowa and amended by Senator Dodge, providing for the grant of land to Iowa for the construction of two railroads—one, north and south, from Dubuque to Keokuk, and the other, east and west, from Davenport to the Missouri River.⁹ A month later (April 22) Douglas introduced a bill for the protection of the emigrant route and for a telegraph line and overland mail from the Missouri River to California and Oregon. At the beginning of the second session of the Thirty-second Congress the Douglas bill was referred to a special committee, which, February 1, 1853, reported a substitute bill for the construction of a Pacific railway, leaving to the president the designation of the route and terminus. The bill was buried by adjournment on February 22, Douglas insisting upon putting every senator on record by calling for the yeas and nays. The next day the Senate voted an appropriation for the survey of the several routes under the direction of the secretary of war, coupled with the requirement

⁸ An excellent study is Allen Johnson, *Stephen A. Douglas* (New York, 1908). Professor Johnson, however, represents the Pacific railroad as "crossing the path" of the Kansas-Nebraska Act rather than as its mainspring (see pp. 222 and 238), and he does not develop the extent of Douglas's activity in behalf of a Pacific railroad and the Iowa route.

⁹ Louis Pelzer, *Augustus Caesar Dodge* (State Hist. Soc. of Iowa *Biographical Series*), chap. xiii; chap. xii treats of the Pacific railroad. The natural order of these chapters is reversed.

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that reports of the surveys be laid before Congress on the first Monday in February, 1854.

While the Senate was debating the Pacific railroad bill, the House passed a bill for the organization of Nebraska. December 13, 1852, Hall of Missouri reported a bill for the organization of the Territory of the Platte, which was referred to the committee on territories. February 2, 1853, Richardson reported from this committee a substitute bill for the organization of Nebraska, without mention of slavery, and the bill passed February 10 by a vote of 98 to 43. Nearly all the votes against the bill came from the South, and both Hall and Richardson¹⁰ charged in the debate that they were based upon opposition to a northern route for the Pacific railway. Replying to Howard of Texas, Mr. Hall said: "He wishes to treat with those Indians, to go through that slow process and in the meantime all the great objects of the bill will be lost and the emigration to the Pacific will be driven to another portion of the Union from the route that it now follows." Elsewhere in the speech he exclaimed: "Everybody is talking about a railroad to the Pacific. In the name of God, how is a railroad to be made, if you will never let people live on the lands through which it passes?"¹¹ Douglas made repeated efforts to get the House bill before the Senate. On the last day of the session (March 3, 1853) it was laid on the table by a vote of 27 to 17. Of those voting, every Southern senator voted against the bill, except the two from Missouri,¹² and every Northern senator for it, except five from the Northeast. Opposition in both houses was ostensibly based on the fact that the Indian title had not been extinguished, although the bill provided that it should not take effect until this had been done. The only progress that was made toward organization was the passage of an appropriation for the extinction of this title.

Professor Ray argues upon two grounds, that the votes on the Richardson bill do not indicate that the opposition was

¹⁰ Richardson's speech is quoted by Ray, p. 241. Ray erroneously says that it is the only reference to the subject in the debate.

¹¹ 32 Cong., 2 sess., *Congressional Globe*, pp. 560, 562, 563.

¹² 32 Cong., 2 sess., *Senate Journal*, p. 322.

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connected with the rivalry over the Pacific railway route: first, that in the Senate twenty-two members did not vote at all; and second, that in the House two members from Louisiana and a considerable part of the New York delegation voted for the bill and only one of the Texas members against it.¹³ In regard to the Senate vote, it may be said that it equalled the average vote of the session and that it was taken on the last day, after many members had gone home. In regard to the House vote, it will be remembered that the South was itself divided on the subject of the Pacific railroad. Louisiana and southern Texas were opposed to a road with an outlet at Charleston, and Louisiana was interested in the proposed Tehuantepec railroad. The two Louisiana votes for Nebraska may have been intended to offset the Southern project, and the failure of one of the two Texas members to vote is not surprising.¹⁴ New York interests were divided between the Pacific Steamship and Panama Railway companies on the one hand and the Erie canal on the other. Erie canal interests required a northern route for the Pacific railway, and a division of the vote in that quarter was therefore to be expected. The vote does not therefore militate against the theory that Pacific railway considerations influenced the attitude of the House toward the organization of Nebraska. The situation was, however, too complex to render it possible to interpret the vote from any single point of view.

During the summer of 1853, Jefferson Davis dispatched the exploring expeditions ordered by Congress to examine the several routes under discussion for the proposed transcontinental railway, and their reports were expected early in the following year. Preliminary surveys of the Gila route had indicated that a railroad in that quarter could best be built south of the river, and it had come to be realized that it was not practicable to

¹³ Ray, pp. 239-241.

¹⁴ It should be said that Howard, who opposed the bill, was from San Antonio, and that Scurry, who did not vote, came from Clarksville in northern Texas. Scurry, whose failure to vote impresses Professor Ray, appears, despite his name, not to have been a very active member of Congress. He is referred to but three times in the index to the *Globe*, for this session: the first time he arrived nearly a month late; the second time he moved to adjourn; and the third time he announced that he had paired.

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build a road in Mexican territory as contemplated by the treaty of Guadalupe. Accordingly, President Pierce sent to Mexico General Gadsden, president of the Charleston road with which the proposed Pacific road was to connect, with instructions to purchase the necessary territory south of the Gila, and by December 30 he had done so.¹⁵ Colonel Manypenny, commissioner of Indian affairs, was sent by the secretary of the interior to the Indian tribes of the Northwest with instructions to make a preliminary survey and to negotiate treaties at his discretion. Manypenny consorted with Southern men while in the territory and returned without negotiating any treaties, reporting that it was confidently believed that the necessary treaties could be secured in the following spring, at which time it was expected that the southern Pacific road would be definitely located. If anything were to be done to prevent it, it must be done quickly.

Douglas spent the summer of 1853 in Europe and returned a month before the opening of Congress. Soon after his return he wrote a confidential letter¹⁶ indicating that the subjects uppermost in his mind were the disposition of the surplus, the river and harbor question, and the Pacific railroad. Referring to his own chances for the presidency, he said: "The party is in distracted condition and it requires all our wisdom, prudence, and energy to consolidate its powers and perpetuate its principles. Let us leave the presidency out of view for at least two years to come."

The first session of the Thirty-third Congress convened on December 5, 1853. On the first day of the session Dodge of Iowa, as chairman of the committee on public lands, gave notice of his intention to introduce a bill for the organization of Nebraska, and on the 14th introduced a bill identical in form with the Richardson bill of the preceding session. The bill was referred to the committee on territories and returned by Douglas January 4, 1854 with amendments, accompanied by his

¹⁵ Gadsden was not nominated minister to Mexico until February 2, 1854, was confirmed February 13, and the treaty was not ratified until April 28; see Senate *Executive Journal*. The treaty included other subjects than the boundary.

¹⁶ Letter to Lanphier and Walker, Nov. 11, 1853; Johnson, pp. 226-228; Ray, pp. 185, 186.

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famous report. The amendments consisted of the insertion in the bill of two clauses taken verbatim from the Utah and New Mexico acts, which Douglas had himself drawn and which both parties professed to accept as a final settlement of the slavery controversy. The first clause provided that "when admitted as a state or states, the said territory * * * shall be received into the Union with or without slavery, as their constitutions may prescribe at the time of their admission". The second clause provided that questions involving title to slaves should be determinable in the local courts, subject to appeal to the supreme court of the United States. The report explained that the committee did not assume either to affirm or deny the Missouri Compromise, but that they considered that its effect was limited to the territorial period and that the question of its validity during that period was a judicial one.

Douglas saw that he could not secure the organization of Nebraska and thus pave the way for a northern route for the Pacific railway without some concession to the South. In the original bill this concession consisted in limiting the force of the Missouri Compromise to the territorial period. The provision that the question of the validity of the prohibition during the territorial period should go to the courts, was a concession only in appearance, since it belonged and would have gone to the courts in any event. Six days later (January 10), Douglas made a second concession by adding a section to the bill which was evidently intended to apply the principle of popular sovereignty to the territory. His hand was further forced by Dixon's motion for direct repeal of the Missouri Compromise, and January 24 he brought in a second bill which declared the Compromise inoperative on the ground that it was superseded by the principles of the Compromise of 1850. This was verbal jugglery intended to cover his defeat. February 7 he made another amendment, forced upon him by the Democratic caucus, which applied popular sovereignty, in Cass's phrase, "subject to the Constitution". Douglas did not originally intend to repeal the Missouri Compromise, but having made one concession he made a second and then was forced to make a third and a fourth. His object was clearly to secure the organization of the territory at any cost. He may be blamed for yielding to pressure, but the facts disprove the charge that

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he set out to repeal the Missouri Compromise in order to win support for the presidency. He yielded to pressure to save the party. The Whig party had been destroyed by the Compromise of 1850, and the Democratic party was "in distracted condition". Northern Democrats refused to extend slave territory, and Southern Democrats demanded a guarantee of slavery in all territory. Douglas hoped to save the party by accepting Cass's expedient of relegating the question of slavery to the people of the territories, "subject to the Constitution." He failed to save the party but he did succeed in postponing its disruption until 1860.

The amended Nebraska bill substituted two territories, Kansas and Nebraska, for a single one. It is a part of the Douglas tradition that two territories were created in order that one might be slave. Douglas at the time clearly stated the reason for two territories.¹⁷ The two Johnsons, and, what was far more important, the representatives of both Iowa and Missouri, demanded two territories. Dodge's speech on this point reveals the extent to which the question of the route for the Pacific railway was the controlling one. "Originally", said Dodge, "I favored the organization of one territory, but representations from our constituents, and a more critical examination of the subject—having an eye to the systems of internal improvement, which must be adopted by the people of Nebraska and Kansas to develop their resources—satisfied my colleague, who was a member of the committee who reported this bill, and myself that the great interests of the whole country and especially of our state demand two territories, otherwise the seat of government and leading thoroughfares must have fallen south of Iowa".¹⁸ As Professor Johnson puts it: "One territory meant aid to the central route; two territories meant an equal chance for both northern and central routes. As the representative of Chicago interests, Douglas was not blind to these considerations."

This session of Congress was too much engrossed by the Kansas-Nebraska controversy to consider seriously the Pacific railroad question. A select committee on the subject was ap-

¹⁷ Johnson, pp. 238, 239.

¹⁸ 33 Cong., 1 sess., *Congressional Globe*, App., p. 382.

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pointed in each house. Gwin of California was chairman of the Senate committee, but Douglas appears to have been its moving spirit. March 13, 1854, a joint bill providing for two roads, one at the south and the other west from Minnesota, was introduced in both houses but was not considered in the Senate and was laid on the table in the House. Douglas did not intend that it should be passed, but was playing for time until Nebraska should be organized. Having organized Nebraska he was ready for the fray.

At the second session of this Congress, January 9, 1855, Douglas reported his railroad bill in the Senate and it was referred to the select committee and reported back on the 15th. The bill provided for three roads: one west from Texas, another west from Missouri or Iowa, and a third west from Minnesota. Within the limits designated, the bill left the location of the roads to the contractors.¹⁹ The day after the bill was reported back to the Senate, Dunbar of Louisiana moved to substitute it for the bill pending in the House. Two days later, John G. Davis of Indiana moved to amend by substituting a single road west from Iowa or Missouri, and in this form the bill was passed; but some question arising as to pairs, Benton rallied the opposition and it was lost upon reconsideration by a single vote. In the Senate, Guyer of Missouri opposed the bill on the ground that the Eastern interests would choose the Iowa terminal, since they would furnish the capital and already owned the Chicago and Iowa roads. Douglas, nevertheless, carried it through the Senate (February 19) but it was not again taken up in the House.

February 27, Jefferson Davis made his final report on the Pacific railway surveys, in which he recommended the adoption of the Gila route. Douglas had a weakness for sharp parliamentary practice. The substitution of his bill in the House and the restriction to a single central road look very much like a prearranged plan.²⁰ Had the bill passed the House there

¹⁹ See *Id.*, 32 Cong., 2 sess., p. 749, for text of the bill.

²⁰ Notice that the member who moved substitution in the House was from Louisiana. John G. Davis made a speech at the preceding session in favor of a single central road: 33 Cong., 1 sess., *Congressional Globe*, App., p. 961. It would be interesting to know the relations between Douglas and Davis.

is little doubt that he could have carried it through the Senate before Davis's report was received. Douglas thus missed by a single vote in the House accomplishing the purpose for which he had organized Nebraska.

The excitement over the struggle in Kansas and the pending presidential election was so great that it was impossible to secure any Pacific railway legislation during the Thirty-fourth Congress; but in 1856 both parties declared in their platforms for a transcontinental road. The Gwin bill, introduced in the Senate during the first session of the Thirty-fifth Congress, provided for a road between San Francisco and some point on the Missouri River between the mouths of the Big Sioux and the Kansas, and Douglas made a speech in its support. As it finally passed the Senate at the following session, it provided for three roads, which was equivalent to making no provision at all for a road, as everyone knew that only one could be built at a time. Sectional feeling had been so intensified that the chance had passed of securing agreement on any one route.

When the Kansas-Nebraska act is considered in connection with the discussion of the Pacific railroad routes which preceded and followed it, the conclusion is irresistible that it was passed chiefly in furtherance of the project for the Chicago and Iowa route. If, however, that purpose had been alleged at the time, it would have prevented its passage. The excitement over the Missouri Compromise obscured the real issue and carried the bill. While Douglas failed by the narrowest possible margin of accomplishing his ulterior object, he nevertheless blocked the building of the southern road which in 1853 was upon the eve of accomplishment. He incidentally blocked the project for the absorption of all Mexico, which Jefferson Davis intended should follow the building of the southern road,¹² and he very possibly saved California to the Union, since a southern road, built before the war, might easily have carried that state into the Confederacy.

Professor Ray argues that Douglas was not controlled by Pacific railway considerations in proposing the Kansas-

¹² W. E. Dodd, *Jefferson Davis* (Philadelphia, 1907), p. 161.

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Nebraska act, for the reason that he never alleged that ground, when hard-pressed, as he afterwards was, to defend his course.²² The difficulty of Douglas's position in his own state has already been noted. He could not openly favor either a Chicago or a St. Louis terminal without losing support in one section of it or the other. His position was similar in the Union. He remained a presidential candidate until his final nomination and defeat. If at any time he had explained that the act generally accepted as a concession to the South was in reality intended to sacrifice Southern to Northern railway interests, he would instantly have lost all Southern support.

Professor Johnson has pointed out that the vote in the Democratic convention of 1852 indicates that Douglas was under no necessity of currying favor in the South, but that he was weakest in the Middle States.²³ If Douglas had his presidential aspirations in mind in proposing the organization of Nebraska, it is more reasonable to suppose that he expected that a Chicago terminal for the Pacific railroad would strengthen him with the Eastern interests and win support where he most needed it. The South did not desert him until popular sovereignty failed to make Kansas a slave state.

Douglas was an opportunist in politics. He had neither the insight nor the foresight of a great statesman. He failed utterly to realize the force of the rising anti-slavery sentiment in the North. He did not foresee the length to which he would have to go in order to organize Nebraska, nor the opposition that it would arouse. He anticipated neither the struggle that popular sovereignty precipitated in Kansas nor the fact that it would be undermined by the supreme court. When that court decided against it, he was compelled to fall back upon the doctrine of unfriendly legislation, promulgated at Freeport. This enabled Lincoln to say that Judge Douglas claims that "a thing may be lawfully driven away from where it has a lawful right to be."

Nevertheless Douglas was the dominant force in American politics during the decade from 1850 to 1860. Lincoln was

²² Ray, p. 242.

²³ Johnson, p. 206.

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exceptional, Douglas was typical. In highest degree he typified the new West, its vigor, its optimism, and its crudity. The parallel is a striking one between Webster's seventh-of-March speech and Douglas's organization of Kansas and Nebraska. Both men were accused of bidding for Southern support for the presidency. It is now admitted that Webster's course was dictated by devotion to the Union. It ought to be equally clear that Douglas's was controlled by devotion to the development of the West. But when the supreme test came, Douglas knew neither North nor South, East nor West, but threw all his strength into the fight for the Union. The minor faults of his political career were more than atoned for in its close. "Nothing in his life became him like the leaving it."

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